

Assembly Bill No. 233

CHAPTER 620

An act to amend Section 11379.6 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 30, 2003. Filed
with Secretary of State September 30, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 233, Cogdill. Controlled substances: manufacture.

Existing law makes it a felony to unlawfully manufacture, compound, convert, produce, derive, process, or prepare, as specified, controlled substances, including methamphetamine. Existing law separately provides that any person convicted of unlawfully manufacturing, or possessing specified precursors with the intent to manufacture, methamphetamine or phencyclidine, when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present, shall be punished by an additional 2 years in the state prison.

This bill would require a sentencing court, except when this enhancing allegation is made applicable, to consider as a factor in aggravation of the sentence for the above felony in a case involving methamphetamine the fact that a person under 16 years of age resided in a structure in which that felony occurred.

The people of the State of California do enact as follows:

SECTION 1. Section 11379.6 of the Health and Safety Code is amended to read:

11379.6. (a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment in the state prison for three, five, or seven years and by a fine not exceeding fifty thousand dollars (\$50,000).

(b) Except when an enhancement pursuant to Section 11379.7 is pled and proved, the fact that a person under 16 years of age resided in a structure in which a violation of this section involving methamphetamine occurred shall be considered a factor in aggravation by the sentencing court.

(c) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

(d) All fines collected pursuant to subdivision (a) shall be transferred to the State Treasury for deposit in the Clandestine Drug Lab Clean-up Account, as established by Section 5 of Chapter 1295 of the Statutes of 1987. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by the county.

